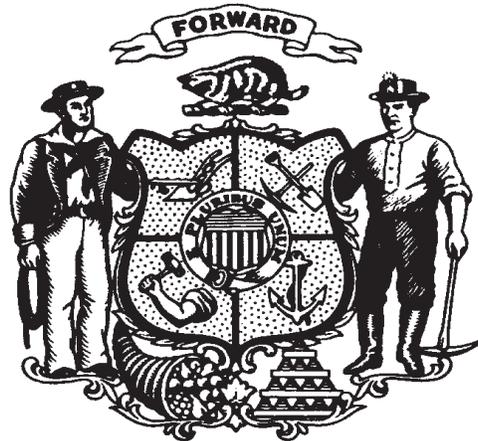


Wisconsin Administrative Register

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Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Agriculture, Trade and Consumer Protection

Rules adopted revising **chs. ATCP 10 and 11**, relating to a poultry flock certification program.

Finding of Emergency

(1) The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers Wisconsin’s animal health and disease control programs, including the national poultry improvement program (NPIP). The NPIP is designed to prevent the spread of *Salmonella pullorum*, fowl typhoid and, in the case of turkeys, *Mycoplasma gallisepticum*. NPIP is governed by 9 CFR 145 and 147. NPIP enrollment is voluntary, but non-enrolled flocks are subject to certain movement restrictions.

(2) Current DATCP rules prohibit the import, use, sale or movement of poultry, farm-raised game birds or their eggs for breeding or hatching unless they originate from flocks that are enrolled in NPIP and meet NPIP standards. Current DATCP rules also prohibit the exhibition of poultry or farm-raised game birds at a fair, exhibition or swap meet unless they originate from an NPIP “pullorum-typhoid clean” or equivalent flock, or are individually tested for pullorum-typhoid.

(3) NPIP is primarily designed for large commercial flocks that move birds or eggs in interstate commerce. NPIP requires yearly testing of all sexually mature birds, and routine inspections. Fees for enrollment in the program differ based on flock size and purpose, and range from \$20 to \$200. NPIP enrollment and testing may be cost-prohibitive for small flocks. Current rules restrict market access and exhibition by

small producers of poultry and farm-raised game birds, and impose an unnecessary burden on those producers. Some small producers may be tempted to ignore or subvert current rules, in order to market or exhibit their poultry or farm-raised game birds. That may, in turn, create unnecessary risks of disease.

(4) It is urgently necessary to provide alternative disease monitoring options for small producers of poultry and farm-raised game birds, so that those producers can legally and economically move, market and exhibit their birds. The current lack of alternatives creates an unnecessary economic hardship, and an unnecessary risk of disease spread.

(5) DATCP has proposed rules which would create practical disease monitoring alternatives for small producers of poultry and farm-raised game birds. DATCP is proceeding to adopt those rules by normal rulemaking procedures. However, normal rulemaking procedures require at least a year to complete. A temporary emergency rule is needed to eliminate unnecessary hardship and risk in the short term, and to provide practical and effective disease monitoring for this year’s fair and exhibition season.

Publication Date:	March 3, 2006
Effective Date:	March 3, 2006
Expiration Date:	July 31, 2006
Hearing Date:	March 31, 2006

Commerce

(Commercial Buildings, Chs. Comm 61–65)

Rules adopted revising **ch. Comm 62**, relating to automatic fire suppression for student housing facilities serving colleges and universities.

Finding of Emergency

Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of a rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. In accordance with sections 101.14 (4) (b) 3., Stats., and the provisions under 2005 Wisconsin Act 78, the department has the responsibility to promulgate rules requiring the installation of automatic fire sprinkler systems in various student housing facilities serving colleges and universities.

2. 2005 Wisconsin Act 78 was published on January 6, 2006, making January 7, 2006 the effective date of the Act.

3. Various provisions of the Act specified the effective date as the trigger to install the automatic fire sprinkler systems.

4. The department recognizes that promulgating this emergency rule will incorporate under the commercial building code, chapters, Comm 61 to 65, specific design and construction standards for new student housing facilities that are consistent with the intent of the Act.

5. The department recognizes that without promulgating this emergency rule, there could be confusion in design of any new student housing to be constructed in the very near future. The omission of the automatic fire sprinkler system during the initial design and construction would potentially place lives at greater risk.

6. In addition, the department recognizes that without promulgating this emergency rule, the confusion in omitting the automatic fire sprinkler system would result in additional costs to retrofit the installation of the system in order to fulfill the statutory obligation based upon the effective date of the Act.

Publication Date: March 4, 2006
Effective Date: March 4, 2006
Expiration Date: August 1, 2006
Hearing Date: May 15, 2006

Elections Board

Rules adopted creating **s. EIBd 1.395**, relating to the use of funds in a federal campaign committee that has been converted to a state campaign committee and relating to the use of those converted funds whose contribution to the federal committee would not have been in compliance with Wisconsin law if the contribution had been made directly to a state campaign committee.

Finding of Emergency

The Elections Board finds that an emergency exists in the recent change in federal law that permits the transfer of the funds in a federal candidate campaign committee's account to the candidate's state campaign committee account and finds that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

Since the Bi-Partisan Campaign Reform Act of 2002 (BICRA), transfers of funds from a federal campaign committee to a state campaign committee had not been authorized under federal law. In November, 2004, Congress amended the Federal Election Campaign Act, (H.R. 4818, s. 532 (3) and 532 (4), to permit the transfer of a federal candidate's campaign committee's funds to the candidate's state campaign committee, if state law permitted, and subject to the state law's requirements and restrictions.

Because of Congress' action in November, 2004, money which had not been available to a state committee under BICRA, and which might not have qualified for use for political purposes in a state campaign because of its source or because of other noncompliance with state law, could now be transferred to a state committee, if state law permitted. Wisconsin law, under the Board's current rule, s. EIBd 1.39, Wis. Adm. Code, allows for conversion of federal campaign committees, and their funds, to a state campaign committee without regard to the source of those funds and without regard to contribution limitations.

Restricting the use of such money to that money which has been contributed to the candidate's federal committee, under circumstances in which the contribution would have complied with Wisconsin law if it had been given directly to the Wisconsin campaign committee, is found to be in the public interest.

Publication Date: February 3, 2005
Effective Date: February 3, 2005*
Expiration Date: July 3, 2005
Hearing Date: May 18, 2005

* On February 9, 2005, the Joint Committee for Review of Administrative Rules suspended this emergency rule.

Natural Resources (7) (Fish, Game, etc., Chs. NR 1—)

1. Rules adopted revising **chs. NR 46 and 47**, relating to the administration of the Managed Forest Law and the Wisconsin Forest Landowner Grant Program.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules that govern the managed forest law. The state legislature has delegated the appropriate agencies rule-making authority to administer the managed forest law. State statute governing the managed forest law was amended on July 25, 2005 with an initial applicability date of June 1, 2005. This order is designed to bring the administrative code into conformity with the state statutes that govern the managed forest law. Normal rule-making procedures will not allow the establishment of changes necessary to continue processing petitions for managed forest law received from June 1, 2005 to July 1, 2005 (petition deadline). Failure to process these petitions will result in a delay in designation of these lands as managed forest land and a failure to meet statutory deadlines for designation.

Publication Date: October 4, 2005
Effective Date: October 4, 2005
Expiration Date: March 3, 2006
Hearing Date: October 19, 2005
Extension Through: May 1, 2006

2. Rules were adopted amending **s. NR 19.50** relating to hunter education fees.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to regulate fees for safety education courses. The state legislature has delegated to the appropriate agencies rule making authority to regulate and administer these courses. The department must comply with state law. This order is desired to provide necessary funding for continuation of our quality hunter education program. Normal rule-making procedures will not allow the establishment of the changes by September 1. Failure to modify our rules will result in lost revenues and added expense to the hunter education program.

Publication Date: October 3, 2005
Effective Date: October 3, 2005
Expiration Date: March 2, 2006
Hearing Date: October 12, 2005
Extension Through: April 30, 2006

3. Rules were adopted amending **ch. NR 47** relating to relating to master logging certification scholarships.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to regulate and administer grant programs. The State legislature has delegated responsibility for rule-making to the Department of Natural Resources. Normal rule-making procedures will not allow the establishment of the rules in time to allocate funds during this fiscal year. Failure to establish rules during FY06 will result in lost revenues and added expense to the Master Logger Certification program.

Publication Date: November 15, 2005
Effective Date: November 15, 2005
Expiration Date: April 14, 2006
Hearing Date: December 12, 2005
Extension Through: June 12, 2006

4. Rules were adopted amending **ch. NR 25** relating to commercial fishing for lake trout in Lake Superior.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is: The waters of Lake Superior were not part of the extensive off–reservation treaty rights litigation known as the Voigt case. The parties stipulated that the Lake Superior rights would be dealt with, to the extent possible, by agreement rather than litigation. This rule represents the implementation of the most recent negotiated amendments to the agreement between the State and the Red Cliff and Bad River Bands. In order to comply with the terms of the agreement, the State must change its quotas and commercial fishing regulations at the earliest possible date. Failure by the State to do so will not only deprive state fishers of increased harvest opportunities available under the agreement, but could also jeopardize the agreement, putting the entire Lake Superior fishery at risk of litigation.

Publication Date: December 15, 2005
Effective Date: December 15, 2005
Expiration Date: May 14, 2006
Hearing Date: January 13, 2006
Extension Through: July 12, 2006

5. Rules were adopted revising **s. NR 10.25**, relating to the issuance of turkey hunting permits.

Plain Language Analysis

This rule change will allow the department to issue turkey tags remaining after the initial permit drawing in accordance with state statute, which is first–come, first–served. Additionally, this rule updates code language to accurately describe how permits are currently issued (by zone and by time period) and establishes that no person may obtain more than one turkey carcass tag per day.

Exemption from finding of emergency

2005 Wisconsin Act 25, allowed the department to utilize the procedure under s. 227.24, Stats., to promulgate rules implementing s. 29.164, Stats., for the period before the date on which permanent rules take effect, but may not exceed the period authorized under s. 227.24 (1) (c) and (2), Stats. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), Stats., the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

Publication Date: February 13, 2006
Effective Date: March 1, 2006
Expiration Date: July 29, 2006
Hearing Date: April 10, 2006

6. Rules were adopted revising **ch. NR 47**, relating to the forestry research and development grant program.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to regulate and administer grant programs. The State legislature has delegated responsibility for rule–making to the Department of Natural Resources. Normal rule–making procedures will not allow the establishment of the rules in time to allocate funds during this fiscal year. Failure to establish rules during FY06 will result in lost opportunity for Wisconsin interests to compete for federal grants that improve the public health, public good and the environment through the development of alternative renewable energy and biochemical sources from forestry biomass.

Publication Date: March 16, 2006
Effective Date: March 16, 2006
Expiration Date: August 13, 2006
Hearing Date: April 24 & 26, 2006

7. Rules were adopted creating **s. NR 45.04 (1) (g)**, relating to regulation of firewood entering and exiting department lands and affecting small businesses.

Finding of Emergency

It is important to have restrictions on out–of–state firewood entering department lands in place this camping season due to recent developments in efforts to eradicate and quarantine emerald ash borer in the areas where it is currently established. In Michigan, Ohio, Indiana and Ontario, eradication programs are being dramatically scaled back or abandoned entirely for this summer. A recent audit of quarantine efforts in Michigan where emerald ash borer is most abundant and widespread is critical and faults their program for lax enforcement and poor education of the public to the dangers of moving firewood. Given this situation, a need for an external quarantine to protect Wisconsin forest resources, industry, and community trees becomes obvious. The Wisconsin Department of Agriculture, Trade and Consumer Protection has proposed an external quarantine on host material of emerald ash borer and three other invasive pests and diseases and our firewood regulation would help support this effort, provide an opportunity for education of the public and reduce one of the reasons people move firewood: for use while camping.

Publication Date: March 27, 2006
Effective Date: April 1, 2006
Expiration Date: August 29, 2006

Natural Resources (2) (Environmental Protection – Water Regulation, Chs. NR 300—)

1. Rules adopted revising **ch. NR 326**, relating to regulation of piers, wharves, boat shelters, boat hoists, boat lifts and swim rafts in navigable waterways.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the

new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30–day public notice. The required 30–day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water–based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision–making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004*
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004

*On June 24, 2004, the Joint Committee for Review of Administrative Rules suspended this emergency rule.

- Rules adopted creating **ss. NR 328.31 to 328.36**, relating to shore erosion control on rivers and streams.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The Wisconsin Legislature enacted 2003 Wisconsin Act 118 to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken as exempt from a permit, or under a general permit. There are no statutory exemptions for shore protection on rivers and streams. Without emergency rules to create general permits,

all shore protection projects on rivers and streams require an individual permit with an automatic 30–day public notice. The required 30–day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision–making but not diminish the public trust in state waters, these emergency rules are required to establish general permits to be in effect for the 2006 construction season, with specific standards for shore erosion control structures on rivers and streams.

Publication Date: May 8, 2006
Effective Date: May 8, 2006
Expiration Date: October 4, 2006

Regulation and Licensing

Rules were adopted creating **chs. RL 164 and 165**, relating to a code of conduct and renewal requirements for substance abuse professionals.

Plain language analysis

The purpose of this emergency rule is to create a code of conduct to facilitate assumption of disciplinary proceedings as part of the transfer of the regulation of substance abuse professionals from the Department of Health and Family Services to the Department of Regulation and Licensing. The emergency rule also sets forth the requirements for renewal.

The Department of Regulation and Licensing must promulgate this emergency rule for the period before the effective date of the permanent rules as promulgated under Wis. Stats. s. 440.88 (3). Under the previous regulatory scheme, the Department of Health and Family Services and the Wisconsin Certification Board had established a code of conduct and restrictions on late renewals. This emergency rule continues the applicability of the rules until the department, with the advice of the Advisory Committee, can establish permanent rules.

Exemption from finding of emergency

Section 9140 (1q) of 2005 Wisconsin Act 25 states in part: “Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

Publication Date: April 15, 2006
Effective Date: April 15, 2006
Expiration Date: September 12, 2006

Revenue (2)

- Rule adopted revising **s. Tax 2.50** and creating **s. Tax 2.502**, relating to the computation of the apportionment fraction by multistated public utilities and telecommunications companies.

Finding of emergency

The Department of Revenue finds that an emergency exists and that a rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The emergency rule is to prescribe the method to be used for apportioning the apportionable income of the following business entities:

- interstate public utilities, other than telecommunications companies, and
- interstate telecommunications companies.

It is necessary to promulgate this rule order to provide the method of apportionment to be used by interstate public utilities.

Publication Date: December 5, 2005
Effective Date: December 5, 2005
Expiration Date: May 4, 2006
Hearing Date: February 27, 2006
Extension Through: July 2, 2006

2. Rules adopted revising **chs. Tax 1 and 2**, relating to electronic funds transfer, information returns and wage statements.

The Department of Revenue finds that an emergency exists and that a rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Section 71.775, Stats., requires pass-through entities to file and pay withholding tax on the income allocable to their nonresident members. The department has determined that in order to administer this tax in a cost effective manner, it is necessary to require pass-through entities to file and pay the tax by electronic means. The department has also determined that, in the interest of cost effectiveness, a requirement to file Form WT-7, *Employers Annual Reconciliation of Wisconsin Income Tax Withheld from Wages*, should also be put in place.

It is necessary to promulgate this rule order to remove the threat of revenue loss to the state as a result of pass-through entities filing or paying withholding tax or employers filing Form WT-7 by other than electronic means.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Secretary of State and Revisor of Statutes, as provided in s. 227.24, Stats.

Publication Date: December 28, 2005
Effective Date: December 28, 2005
Expiration Date: May 27, 2006
Hearing Date: March 15, 2006
Extension Through: July 25, 2006

Transportation

A rule adopted amending **s. Trans 325.02**, relating to motor carrier safety regulations.

Finding of emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is on October 1, 2005 the new hours-of-service regulations became effective. The new regulations apply to drivers and carriers transporting property and passengers by commercial vehicles in interstate commerce. It is imperative the industry operates under a single set of regulations. Additionally, the Commercial Vehicle Safety Alliance out-of-service criteria is directly formulated to the new hours-of-service. Also

pursuant to 49 CFR 350.331(d), States are required to adopt compatible laws or rules to remain eligible for Motor Carrier Safety Assistance Program funding. Currently, Wisconsin receives approximately \$4 million in such funding and that funding could be in jeopardy if Wisconsin does not implement these changes immediately. The Motor Carriers Association has urged the Department to implement these changes as it will help ensure uniformity and increased highway safety.

Publication Date: December 1, 2005
Effective Date: December 1, 2005
Expiration Date: April 30, 2006
Hearing Date: February 13, 2006
Extension Through: June 28, 2006

Workforce Development (Labor Standards, Chs. DWD 270–279)

Rules adopted revising **ss. DWD 274.015 and 274.03** and creating **s. DWD 274.035**, relating to overtime pay for employees performing companionship services.

Finding of emergency

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

On January 21, 2004, pursuant to s. 227.26(2)(b), Stats., the Joint Committee for Review of Administrative Rules directed the Department of Workforce Development to promulgate an emergency rule regarding their overtime policy for nonmedical home care companion employees of an agency as part of ch. DWD 274.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 103.005, 103.02, and 227.11, Stats.

Statutes interpreted: Sections 103.01 and 103.02, Stats.

Section 103.02, Stats., provides that “no person may be employed or be permitted to work in any place of employment or at any employment for such period of time during any day, night or week, as is prejudicial to the person’s life, health, safety or welfare.” Section 103.01 (3), Stats., defines “place of employment” as “any manufactory, mechanical or mercantile establishment, beauty parlor, laundry, restaurant, confectionary store, or telegraph or telecommunications office or exchange, or any express or transportation establishment or any hotel.”

Chapter DWD 274 governs hours of work and overtime. Section DWD 274.015, the applicability section of the chapter, incorporates the statutory definition of “place of employment” and limits coverage of the chapter to the places of employment delineated in s. 103.01 (3), Stats., and various governmental bodies. Section DWD 274.015 also provides that the chapter does not apply to employees employed in domestic service in a household by a household.

Section 103.02, Stats., directs that the “department shall, by rule, classify such periods of time into periods to be paid for at the rate of at least one and one-half times the regular rates.” Under s. DWD 274.03, “each employer subject to this chapter shall pay to each employee time and one-half the regular rate of pay for all hours worked in excess of 40 hours per week.” Section DWD 274.04 lists 15 types of employees who are exempt from this general rule and s. DWD 274.08 provides that the section is inapplicable to public employees.

Nonmedical home care companion employees who are employed by a third-party, commercial agency are covered by the overtime provision in s. DWD 274.03. Section DWD 274.03 applies to all employees who are subject to the chapter and not exempt under ss. DWD 274.04 or 274.08. The chapter applies to companion employees of a commercial agency because under s. DWD 274.015 a commercial agency is considered a mercantile establishment. Section DWD 270.01 (5) defines a mercantile establishment as a commercial, for-profit business. The chapter does not apply to companion employees of a nonprofit agency or a private household. In addition, none of the exemptions to the overtime section in ss. DWD 274.04 or 274.08 apply to companion employees of a commercial agency.

The Joint Committee for the Review of Administrative Rules has directed DWD to promulgate an emergency rule regarding the overtime policy for nonmedical home care companion employees of an agency. This provision is created at s. DWD 274.035 to say that employees who are employed by a mercantile establishment to perform companionship services shall be subject to the overtime pay requirement in s. DWD 274.03. "Companionship services" is defined as those services which provide fellowship, care, and protection for a person who because of advanced age, physical infirmity, or mental infirmity cannot care for his or her own needs. Such services may include general household work and work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. The term "companionship services" does not include services relating to the care and protection of the aged or infirm person that require and are performed by trained personnel, such as registered or practical nurses.

This order also repeals and recreates the applicability of the chapter section and the overtime section to write these rules in a clearer format. There is no substantive change in these sections.

Publication Date: March 1, 2004
Effective Date: March 1, 2004*
Expiration Date: July 29, 2004

* On April 28, 2004, the Joint Committee for Review of Administrative Rules suspended s. DWD 274.035 created as an emergency rule.

Workforce Development (Public Works Construction Projects, Chs. DWD 290–294)

Rules adopted amending ss. **DWD 290.155 (1) and DWD 293.02 (1) and (2)**, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements.

Finding of emergency

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Adjusting the thresholds for application of the prevailing wage rate requirements by emergency rule ensures that the adjustments are effective on a date certain that is prior to the time of year that project requests are generally submitted to the Department and applicability of the prevailing wage law is determined. The adjustment avoids imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. The adjustment of the thresholds for the application of the payment and performance assurance requirements avoids imposing an additional administrative burden on contractors for the same reason. If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the rule-making process.

Publication Date: December 27, 2005
Effective Date: January 1, 2006
Expiration Date: May 31, 2006
Hearing Date: February 15, 2006

Scope statements

Administration

Subject

2005 Wisconsin Act 89 (“Act 89”) renumbered and amended s.16.705 (8), Stats., amended s. 16.705(1) and (2), Stats., and created ss. 16.70 (3g) and 16.705 (8) (a) and (b), Stats., in order to prescribe uniform procedures for determining whether services are appropriate for contracting under the State procurement system.

Policy analysis

The department intends to promulgate rules as required by Act 89 to require a cost–benefit analysis to be completed for each bid or request for proposal to compare the cost of contracting for services versus providing the services with state employees.

Currently, all state agencies and UW System campuses may contract for services between \$25,000 and \$200,000 if they can show that the services can be performed more economically or efficiently by such a contract than by state employees. Currently, if the contractual services would be greater than \$200,000, the contracting agency must complete a more rigorous and detailed cost/benefit analysis to demonstrate that the services can be performed more economically or efficiently by such a contract than by state employees. This more rigorous and detailed analysis includes total cost, quality and nature of services required, specialized skills, time factors, risk factors and legal barriers. Act 89 requires agencies to conduct uniform cost–benefit analysis of each proposed contractual service procurement involving an estimated expenditure of more than \$25,000 in accordance with standards prescribed in the rules. Cost benefit–analysis is defined to include total cost, quality, technical expertise and timeliness of a service.

Act 89 also requires agencies to review periodically, and before any renewal, the continued appropriateness of contracting under each services agreement involving an estimated expenditure of more than \$25,000. Act 89 requires the department to complete an annual summary report of the cost benefit–analysis prepared by state agencies in the preceding fiscal year and recommendations for elimination of unneeded contractual service procurements and for the consolidation or resolicitation of existing contractual service procurements.

Statutory authority

Sections 16.004 (1), 16.705 (2) and 227.11, Stats.

Staff time required

The amount of staff time needed to develop the rule may range from 200–500 hours based upon its complexity. This estimate includes review and comment by the affected agencies as well as DOA staff.

Entities affected by the rule

All state agencies and UW System campuses.

Comparison with federal regulations

This proposed rule is specific to State of Wisconsin procurement laws and is completely separate from, and unaffected by, federal regulations.

Administration

Subject

Objective of the rule. To amend Ch. Adm 47 to reflect statutory changes made to the land information program in 2005 Wisconsin Act 25 and to make the rule consistent with the August 2004 *Report to the Governor and Legislature on the Wisconsin Land Council and Land Information Board, “An Evaluation of Functions, Activities and Future Directions.”* This report was a consensus document developed by the Department of Administration, the Wisconsin Land Information Board and the Wisconsin Land Council. Among other things, the report provided guidance for implementation of the Wisconsin Land Information Program after the sunset of the Land Information Board. To accomplish the proposed changes to the program requires a revision of the governing administrative rule, ch. Adm 47, Wisconsin Land Information Program – Grants–In–Aid to Local Government.

Policy analysis

The former Wisconsin Land Information Board was the grant and program decision making body.

Adm 47.04 (2) provides the land information system base budget grants eligible shall be less than \$35,000 for the preceding fiscal year.

New Policy:

All references to the Land Information Board, which sunset July 1, 2005, will be changed to the Department of Administration;

Eligibility changes to allow the program to award “Base Budget” grants to counties who have less than \$50,000 in retained fees.

Policy Alternative: Continue operations under existing policy. Because the statute governs the program, the Department of Administration can continue to award grants using the current eligibility requirements.

Statutory authority

This chapter is promulgated under the authority of ss. 16.004 (1) and 227.11, Stats., to implement s. 16.967 (7), Stats.

Staff time required

Approximately 40 hours of staff time to develop the rule.

Entities affected by the rule

County Land Information Offices (represented by their Land Information Officer Network organization), Wisconsin Land Information Association.

To facilitate participation and support in the rule revision process by the various parties in the August 2004 agreement,

we will create an informal work group that can provide guidance and feedback as we draft and modify the rule before the formal public hearing that is required in the rule making process. Several members of the Wisconsin Land Information Association, Land Information Officers Network and a former member of the Land Information Board have requested to be involved in the rule revision process.

Comparison with federal regulations

There are no proposed or existing federal regulations that address the activities contemplated by this proposed rule.

Elections Board

Subject

Create s. EIBd 7.04 to require, pursuant to s. 7.08 (6), Stats., the establishment of a voting system audit procedure and to require compliance with that audit procedure by municipalities and counties in this state.

Policy analysis

Objective of the rule. To create a rule that requires the Elections Board to establish an audit procedure to measure the performance of each voting system used in this state by determining the error rate of the system in counting ballots that are validly cast by electors. The rule will also require compliance with that audit procedure by municipalities and counties in this state.

Description of policies – relevant existing policies, proposed new policies and policy alternatives considered:

Under s. 7.08 (6), Stats., “Following each general election, the elections board shall audit the performance of each voting system used in this state to determine the error rate of the system in counting ballots that are validly cast by electors.” Also, “if the error rate exceeds the rate permitted under standards of the federal election commission in effect on October 29, 2002, the board shall take remedial action and order remedial action to be taken by affected counties and municipalities to ensure compliance with the standards.” The rule requires the board to establish, based on the applicable federal standards, an audit procedure that will be followed by it and by counties and municipalities in determining voting system error rate and that will ensure compliance with the federal standards.

The board’s staff is in the process of developing the audit procedure and, when completed, that audit procedure will be disseminated to each county and municipality in Wisconsin.

Statutory authority

Sections 5.05 (1) (f) and 227.11 (2) (a), Stats.

Staff time required

At least 20 hours of state employees’ time.

Entities affected by the rule

The rule will affect each municipality and county in Wisconsin by requiring each of them to ensure the ballot counting effectiveness of their voting system by complying with the audit procedure established by the elections board. That audit procedure will be based on the error rate standards set by the federal election commission on October 29, 2002.

Comparison with federal regulations

A summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

The rule is intended to implement the voting system accuracy or error rate standards set by the federal election commission in effect on October 29, 2002.

Regulation and Licensing

Subject

Creation of rules to reflect the newly created statutory requirements for the transfer of credentialing authority of registered sanitarians to the Department of Regulation and Licensing. The rules will establish minimum standards and qualifications for licensure of registered sanitarians, set standards for sanitarians registered in other states to practice as registered sanitarians in this state, as well as define basis for discipline of credential holders.

Policy analysis

Objective of the rule. To implement the statutory provisions of 2005 Wisconsin Act 25 §§ 2336m.

The creation of administrative rules for the regulation of registered sanitarians is necessary to implement newly created Subchapter VI of chapter 440 of the Wisconsin Statutes pursuant to 2005 Wisconsin Act 25 §§ 2336m. Registered Sanitarians were previously regulated in HFS 160.

Statutory authority

Wis. Stat. s. 227.11 (2) and subchapter VI of chapter 440, Stats., as created by 2005 Wisconsin Act §§ 2336m.

Comparison with federal regulations

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Entities affected by the rule

Registered sanitarian licensees and applicants.

Staff time required

600 hours.

Transportation

Subject

Objective of the rule. This rule making will amend ch. Trans 101, which administratively interprets ch. 343, Stats., and establishes Department policy and procedures relating to the demerit point system.

Policy analysis

Chapter 343 was amended by 1997 Wis. Act 84 to permit only suspension of the operating privilege under the demerit point system. Currently ch. Trans 101 contains language that would permit suspension or revocation of the operating privilege. Suspensions are now the only statutorily permitted sanction. This rule making will eliminate obsolete references to “revocation.”

Section Trans 101.05 (1) states that persons reinstating their operating privilege from certain suspensions or revocations are eligible for a reduction of existing points to no more than 6 points. DMV proposes to not use convictions (and points assessed) that have already been used to previously revoke or suspend an operating privilege, with the exception of convictions used to suspend or revoke for Failure to Pay, Habitual Traffic Offender, Serious Violation by the Holder of an Occupational License, or to Disqualify Commercial Operating Privileges. As a result, a driver reinstating his or her license from a demerit point suspension will typically reinstate with 0 points on their record.

The current regulation imposes demerit points for some violations that result in mandatory revocation or suspension of the operating privilege. DMV proposes to eliminate assessment of demerit points for such offenses so that drivers do not suffer multiple suspensions or revocations from a single violation.

DMV will consider assessing demerit points for negligent operation of a motor vehicle under s. 941.01, Stats.

Comparison with federal regulations

Federal law does not require states to adopt or have a demerit point system.

Entities affected by the rule

Drivers, courts, district attorneys, and attorneys who deal with traffic violations.

Staff time required

State employees should not need to spend more than about 20 hours on modifications to this rule.

Transportation

Subject

Objective of the rule. This proposal will amend ch. Trans 276, which establishes a network of highways on which long combination vehicles may operate, by adding one highway segment to the network. The actual segment being proposed is:

STH 180 from STH 64 at Marinette to USH 141 in Marinette County

Policy analysis

Federal law requires the Department of Transportation to react within 90 days to requests for changes to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to make changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. The Department has received a request from Tom Joy & Son, Inc., of Peshtigo, WI, to add this highway segment. Current law limits straight trucks on the highways in question to 40 feet in length and combination vehicles to 65 feet in length. Double bottom trucks are currently not permitted on these stretches of highway.

Designating these particular highways as “long truck routes,” would lift all limits on overall truck length and permit double–bottom trucks to be operated on the routes, provided that the trailer on a combination vehicle does not exceed 53 feet in length and no trailer on a double bottom exceeds 28 feet in length. This proposed rule change would not permit overweight loads.

Increasing overall vehicle length raises two primary safety concerns on any highway. First, whether the physical geometrics of the highway will permit longer vehicles to operate upon it. That is, “will the vehicles physically fit on the highway?” Sharp corners, for example, can make it impossible for a long vehicle to navigate a route while remaining within its lane of travel. Second, longer vehicles are more difficult for traffic to pass. This is especially true on 2–lane roads.

Comparison with federal regulations

In the Surface Transportation Assistance Act of 1982 (STAA), the federal government acted under the Commerce

clause of the United States Constitution to provide uniform standards on vehicle length applicable in all states. The length provisions of STAA apply to truck tractor–semitrailer combinations and to truck tractor–semitrailer–trailer combinations. (See Jan. 6, 1983, Public Law 97–424, § 411) The uniform standards provide that:

- No state shall impose a limit of less than 48 feet on a semitrailer operating in a truck tractor–semitrailer combination.

- No state shall impose a length limit of less than 28 feet on any semitrailer or trailer operating in a truck tractor–semitrailer–trailer combination.

- No state may limit the length of truck tractors.

- No state shall impose an overall length limitation on commercial vehicles operating in truck tractor–semitrailer or truck tractor–semitrailer–trailer combinations.

- No state shall prohibit operation of truck tractor–semitrailer–trailer combinations.

The State of Wisconsin complied with the federal requirements outlined above by enacting 1983 Wisconsin Act 78 which amended § 348.07 (2), Stats., and § 348.08 (1), Stats. This act created §§ 348.07 (2) (f), (fm), (gm) and 348.08 (1) (e) to implement the federal length requirements. In 1986 the legislature created § 348.07 (2) (gr), Stats., to add 53 foot semitrailers as part of a two vehicle combination to the types of vehicles that may operate along with STAA authorized vehicles. (See 1985 Wisconsin Act 165)

The vehicles authorized by the STAA may operate on the national system of interstate and defense highways and on those federal aid primary highways designated by regulation of the secretary of the United States Department of Transportation. In 1984 the USDOT adopted 23 CFR Part 658 which in Appendix A lists the highways in each state upon which STAA authorized vehicles may operate. Collectively these highways are known as the National Network. In 1983 Wisconsin Act 78, the legislature enacted § 348.07 (4), Stats., which directs the Wisconsin Department of Transportation to adopt a rule designating the highways in Wisconsin on which STAA authorized vehicles may be operated consistent with federal regulations.

The Department of Transportation first adopted ch. Trans 276 of the Wisconsin Administrative Code in December of 1984. The rule is consistent with 23 CFR Part 658 in that the Wisconsin rule designates all of the highways in Wisconsin that are listed in 23 CFR Part 658 as part of the National Network for STAA authorized vehicles. The federal regulation does not prohibit states from allowing operation of STAA authorized vehicles on additional state highways. The rule making authority granted to the Wisconsin Department of Transportation in § 348.07 (4), Stats., allows the DOT to add routes in Wisconsin consistent with public safety. The rule making process also provides a mechanism to review requests from businesses and shipping firms for access to the designated highway system for points of origin and delivery beyond 5 miles from a designated route. A process to review and respond to requests for reasonable access is required by 23 CFR Part 658.

Entities affected by the rule

The rule will affect the requester of the route to be designated and other operators of commercial motor vehicles. Permitting long trucks on the route will necessarily affect all persons operating on the stretch of highway in question.

Statutory authority

Section 348.07 (4), Stats.

Staff time required

It is estimated that state employees will spend 40 hours on the rule-making process, including research, drafting and conducting a public hearing.

University of Wisconsin System**Subject**

Procedures for dismissal of faculty and academic staff who engage in serious criminal misconduct.

Objective of the rule. The objective of the proposed rule-making is to create an expedited process for discipline of faculty and academic staff members who engage in serious criminal misconduct and to clarify the circumstances under which a faculty or academic staff member who is charged with serious criminal misconduct may be suspended without pay during the pendency of the internal disciplinary process.

Policy analysis

Sections 36.09 (1), 36.11 (1) and 36.13 (3), Stats., authorize the Board of Regents and UW System faculty, after consultation with appropriate students, to promulgate rules for the dismissal of faculty members. Currently, ch. UWS 4, Wis. Adm. Code, provides that faculty members with tenured appointments may be dismissed by the Board for just cause. Probationary faculty members may be dismissed by the Board prior to the end of their appointment for just cause. The proposed rules would add provisions to deal specifically with circumstances in which faculty and academic staff members have engaged in serious criminal misconduct, a category of just cause under the proposed rules. The proposed rules would define serious criminal misconduct, provide protection

for constitutionally-protected conduct, expression, or beliefs, and assure adequate due process in the dismissal proceedings.

The proposed rule would also establish an expedited procedure that includes investigation of serious criminal misconduct, conducting hearings, and a Board decision on termination within set time periods totaling approximately 60 working days. In addition, the proposed rule would allow the provost of the employing institution, after consultation with appropriate institutional governance representatives, to suspend the faculty or academic staff member from duty without pay during the pendency of disciplinary proceedings in cases where the faculty or academic staff member has engaged in or been convicted of serious criminal misconduct, there is a substantial likelihood that the faculty or academic staff member has engaged in such misconduct, or where the faculty or academic staff member is unable to report for duty due to incarceration, conditions of bail or similar cause. The faculty or academic staff member would have an opportunity to be heard before being suspended without pay.

Statutory authority

Sections 36.09 (1), 36.11 (1) and 36.13 (3), Stats.

Staff time required

The Board estimates that it will take approximately 40 hours of staff time to develop the proposed rule, and 20 hours to finalize the rule following public hearing.

Comparison with federal regulations

Not applicable.

Entities affected by the rule

This rule will affect faculty and academic staff of University of Wisconsin System institutions who engage in serious criminal misconduct, as defined in the rule.

Submittal of rules to legislative council clearinghouse

*Please check the Bulletin of Proceedings – Administrative Rules
for further information on a particular rule.*

Financial Institutions – Banking

On April 27, 2006, the Department of Financial Institutions submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Rules affecting ch. DFI–Bkg 74, relating to collection agencies.

Agency Procedure for Promulgation

The Department of Financial Institutions will hold a public hearing on the proposed rules on June 20, 2006.

The organization unit responsible for the promulgation of the rule is the Department of Financial Institutions, Division of Banking.

Contact Persons

Mark Schlei
Deputy General Counsel
608 267–1705

Natural Resources

On April 11, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Rules affecting ch. NR 5, relating to sound testing methods for airboats.

Agency Procedure for Promulgation

The Department of Natural Resources will hold public hearings on the proposed rules on May 24 and June 1, 2006.

Contact Persons

William Engfer
Bureau of Law Enforcement
608 266–0859

Natural Resources

On April 11, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Rules affecting to chs. NR 10 and 45, relating to correcting management unit boundaries, clarifying trapping requirements, correcting cross–references and update rules on the identification of tree stands on state lands.

Agency Procedure for Promulgation

The Department of Natural Resources will hold a public hearing on the proposed rules on May 16, 2006.

Contact Persons

Kurt Thiede

Bureau of Wildlife Management
608 267–2452

Natural Resources

On April 11, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Rules affecting ch. NR 320, relating to regulation of bridges and culverts in or over navigable waterways.

Agency Procedure for Promulgation

The Department of Natural Resources will hold public hearings on the proposed rules on May 11 and 15, 2006.

Contact Persons

Mary Ellen Vallbrecht
Bureau of Watershed Management
608 267–7694

Public Service Commission

NOTICE IS GIVEN, pursuant to s. 227.14(4m), Stats., that on April 27, 2006, the Public Service Commission of Wisconsin submitted a proposed rule to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

Analysis

The proposed rule, Commission docket 1–AC–211, repeals ch. PSC 98, Wis. Admin. Code, relating to rules adopted to meet all requirements in section 303.304 of the regulations of the Federal Price Commission in regard to increases in rates or charges of utilities, railroads, motor carriers, and carriers by water within the Public Service Commission’s jurisdiction.

Agency Procedure for Promulgation

A public hearing will be held on June 7, 2006, at 10:00 AM at the Public Service Commission building at 610 North Whitney Way, Madison, Wisconsin.

The Gas and Energy Division of the Commission is the organizational unit responsible for the promulgation of the rule.

Contact Person

The contact person is Leon Swerin, Assistant General Counsel at (608) 267–3589.

Public Service Commission

NOTICE IS GIVEN, pursuant to s. 227.14 (4m), Stats., that on April 27, 2006, the Public Service Commission of Wisconsin submitted a proposed rule to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

Analysis

The proposed rule, Commission docket 1-AC-218, repeals Wis. Admin. Code chs. PSC 7 and 172, and amends Wis. Admin. Code s. PSC 2.11, concerning assessments attributable to acid deposition studies and monitoring activities, the regulation of certain wireless telecommunications providers, and abandonment of facilities and discontinuance or service by telecommunications utilities.

Agency Procedure for Promulgation

A public hearing will be held on June 7, 2006, at 10:00 AM at the Public Service Commission building at 610 North Whitney Way, Madison, Wisconsin.

Contact

The Office of General Counsel of the Commission is the organizational unit responsible for the promulgation of the rule. The contact person is Joyce Mahan Dingman, Assistant General Counsel, at (608) 267-6919.

Transportation

On April 14, 2006, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect ch. Trans 103, relating to habitual traffic offenders.

Agency Procedure for Promulgation

A public hearing is required and scheduled for May 16, 2006. The Division of Motor Vehicles, Bureau of Driver Services, Citations and Withdrawals Section is responsible for promulgation of the proposed rule.

Contact

Julie A. Johnson, Paralegal
(608) 266-8810

Transportation

On April 14, 2006, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on specified highways.

Agency Procedure for Promulgation

A public hearing is required and scheduled for May 16, 2006. The Division of Transportation System Development, Bureau of Highway Operations is responsible for promulgation of the proposed rule.

Contact

Julie A. Johnson, Paralegal
(608) 266-8810

Transportation

On April 24, 2006, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect ch. Trans 327, relating to motor carrier safety.

Agency Procedure for Promulgation

A public hearing is required and scheduled for May 26, 2006. The Division of State Patrol, Bureau of Field Operations is responsible for promulgation of the proposed rule.

Contact

Julie A. Johnson, Paralegal
(608) 266-8810

Transportation

On April 11, 2006, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect ch. Trans 510, relating to Transportation Facilities Economic Assistance and Development (TEA) Program.

Agency Procedure for Promulgation

A public hearing is required and scheduled for May 25, 2006. The Division of Transportation Investment Management, Bureau of Planning and Economic Development, Economic Development Section.

Contact

Julie A. Johnson, Paralegal
(608) 266-8810

Workforce Development

On April 27, 2006, the Department of Workforce Development submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect chs. DWD 12, 16, 17, 55 and 56, relating to Wisconsin Works, Emergency Assistance and child care, and affecting small businesses.

Agency Procedure for Promulgation

A public hearing is required and scheduled for May 31, 2006. The organizational unit responsible for the promulgation of the proposed rules is the DWD Division of Workforce Solutions.

Contact

Elaine Pridgen
(608) 267-9403
Email: elaine.pridgen@dwd.state.wi.us

Rule–making notices

Notice of Hearing

Financial Institutions – Banking

[CR 06–045]

NOTICE IS HEREBY GIVEN That pursuant to ss. 218.04 (7) (d) and 227.11 (2), Stats., and interpreting 218.04, 220.02 (2) and 220.02 (3), Stats., the Department of Financial Institutions, Division of Banking will hold a public hearing at the Department of Financial Institutions, Office of the Secretary, 345 W. Washington Avenue, 5th Floor in the city of Madison, Wisconsin, on the **20th day of June, 2006, at 10:00 a.m.** to consider a rule to repeal and recreate ch. DFI—Bkg 74, relating to collection agencies.

Analysis Prepared by the Department of Financial Institutions, Division of Banking

Administrative code provisions regarding collection agencies have not been substantially revised or updated since 1965. In the proposed rule out–dated provisions are removed, minor technical changes are made, and the remaining provisions are streamlined to reflect current practices. These provisions regard definitions, office requirements, office relocations and material changes, agreements and acknowledgments, remittance statements, trust fund accounts, books and records, disclosure of rates in advertising, furnishing reports to creditor on written request, procedures for return or cancellation of accounts, general matters, annual reports, fair collection practice notices, use of aliases, unauthorized practice of law, oppressive and deceptive practices and use of data processing.

Fiscal Estimate

The rule’s requirements place no additional duties or burdens on state or local government, and hence has no affect on costs to either.

Contact Person

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency’s internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708–8861, tel. (608) 267–1705. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution’s website, www.wdfi.org. Written comments regarding the proposed rule may also be submitted via the department’s website contact page, e–mail the secretary. Written comments must be received by the conclusion of the department’s hearing regarding the proposed rule.

For substantive questions on the rule, contact Michael J. Mach, Administrator, Department of Financial Institutions, Division of Banking, P.O. Box 7876, Madison, WI 53707–7876, tel. (608) 266–0451.

Notice of Hearings

Health and Family Services

(Community Services)

[CR 06–035]

NOTICE IS HEREBY GIVEN that pursuant to ss. 51.42 (7) (b), 51.45 (8) (a) and (9), 343.30 (1q) (c) 2., and 343.305 (10) (c) 2., Stats., and interpreting ss. 46.973 (2) (c), 51.42, 51.45, 340.01 (23v), 343.30 (1q) (c) and (d) and 343.305 (10) (c) and (d), Stats., relating to assessment and services for drivers with alcohol or controlled substance problems, and affecting small businesses.

Hearing Date(s) and Location(s)

May 18, 2006

10:00 a.m. – 12:00 Noon

Northcentral Technical College – Wausau Campus
Main Building, 1000 West Campus Drive
Room E–101
Wausau, WI

May 24, 2006

3:00 p.m. – 5:00 p.m.

Mendota Mental Health Institute
Conference Center, Main Conference Room
301 Troy Drive
Madison, WI

May 26, 2006

10:00 a.m. – 12 Noon

Fox Valley Technical College – Appleton Campus
Main Building, 1825 North Bluemound
Room F–108
Appleton, WI

May 30, 2006

10:00 a.m. – 12 Noon

Gateway Technical College – Racine Campus
Racine Building, 901 Pershing Drive (Parking Lot D)
Room 102
Racine, WI

June 2, 2006

12 Noon – 2:00 p.m.

Chippewa Valley Technical College – Eau Claire
Clairemont Campus, Business Education Center
620 West Clairemont Avenue

Room 100–A (RCV Community Room)
Eau Claire, WI

The hearing site is fully accessible to people with disabilities. If you are hearing impaired, do not speak English or have circumstances that might make communication at a hearing difficult; you require an interpreter or a non–English large print or taped version of the proposed rules, contact the person at the address or telephone number given below at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Place Where Written Comments May be Submitted

Written comments may be submitted at the public hearing or submitted to the Department using the Wisconsin Administrative Rule Website at <http://adminrules.wisconsin.gov>

Comments may also be sent to:

Gary Nelson, IDP Coordinator

DHFS – Bureau of Mental Health and Substance Abuse Services

1 West Wilson St., Rm. 437

P.O. Box 7851

Madison, WI 53707–7851

Phone: 608–267–7164

Email: nelsogp@dhfs.state.wi.us

Deadline for Comment Submission

The deadline for submitting comments to the Department is 4:30 p.m. on June 9, 2006.

Analysis Prepared by the Department of Health and Family Services

Pursuant to ss. 343.30 (1q) (c) 2. and 343.305 (10) (c) 2. , Stats., ch. HFS 62 provides uniform procedures for intoxicated driver assessment and driver safety plan programs to serve the approximately 35,000 individuals who are ordered by a court or the Department of Transportation to undergo alcohol and other drug abuse assessment and complete a driver safety plan. Chapter HFS 62 has not been substantially revised for over 21 years. Over the years the Department has issued interim policy memos to assessment facilities and driver safety plan providers to accommodate changes in practice and interpretations needed to ensure uniformity and quality of care. The Department proposes to incorporate these policy memos, eliminate outdated and overly prescriptive rule provisions, and update the rules to be consistent with current statutes affecting intoxicated drivers and the agencies serving them.

In addition to proposing the changes to ch. HFS 62, the Department proposes to revise ch. HFS 75, rules relating to certification of community substance abuse services to add intervention services as a level of care. Chapter HFS 75 was created effective August 1, 2000 to replace and update rules for certification of community alcohol and drug abuse prevention and treatment programs that were previously codified in subchapter III of ch. HFS 61. Chapter HFS 75 includes the general requirements that apply to all or most of the different types of substance abuse services, and standards for particular services – prevention; emergency outpatient; medically managed inpatient detoxification; medically monitored residential detoxification; ambulatory detoxification; residential intoxication monitoring; medically managed inpatient treatment; medically monitored treatment; day treatment; outpatient treatment, transitional residential treatment; and narcotic treatment for opiate addiction. A

particular provider may be certified to provide one or more types of service.

During the drafting of ch. HFS 75, provisions relating to intervention services that had previously been in ch. HFS 61 were inadvertently removed from proposed rules. Intervention services may now be a formal substance abuse service under the newly proposed s. HFS 75.16, or may be included in, but is not limited to, an educational program, an employee assistance program, an intoxicated driver assessment or driver safety plan program under ch. HFS 62, screening procedures under s. HFS 75.03 (10), or consultation provided to non–substance abuse professionals or may include outreach; problem identification; referral; information; specialized education; case management; consultation; training; support or drop–in services; intensive supervision; alternative education and intoxicated driver assessments under ch. HFS 62.

Effect on Small Business (Initial Regulatory Flexibility Analysis)

Each year in Wisconsin there are 8,800 alcohol–related traffic crashes, 6,200 alcohol–related crash injuries, and 325 alcohol–related crash deaths. Apart from public awareness, fines, penalties, and imprisonment, one of the critical solutions to this traffic safety problem is contained under the proposed rule revisions. Under statute [343.30 (1q), Stats.] and the proposed rule revisions, each year approximately 35,000 individuals are convicted of driving while intoxicated and are ordered by the court or the Department of Transportation to undergo an alcohol and other drug abuse assessment and complete a driver safety plan. These driver safety plans recommend a program of education, treatment, or both to help the individual regain safe driving capability. An individual’s driving privileges are reinstated if they complete the assessment and driver safety plan program.

Each county department of community programs or human services is required under s. 343.30 (1q), Stats., and the current ch. HFS 62 (assessment of drivers with alcohol or controlled substance problems) to designate a single agency to provide the operating while intoxicated (OWI) assessment service. There are about 72 of these agencies statewide. These designated OWI assessment service agencies are either outpatient clinics operated by county government or a private non–profit organization under contract with county government. These assessment agencies also monitor the person’s participation in the education or treatment program and submit appropriate records to the Department of Transportation for action on the person’s driving privileges. Under ch. HFS 75, community substance abuse service standards, a county–designated intoxicated driver assessment agency is also approved by the Department to provide a variety of substance abuse education, intervention, and treatment services. Professional staff of these assessment agencies are also required to meet minimum credentials established under ss. HFS 75.02 (84), HFS 75.02 (11), HFS 61.06 (1) to (13), or ch. 457, Stats. These assessment agencies fulfill a critical role in Wisconsin’s program to reduce intoxicated driving.

Under s. 343.30 (1q) (c) 2, Stats., the Department is directed to establish standards for OWI assessment procedures in order to ensure uniform and effective practices. The principal motivation for these rules, originally promulgated in 1984, is to protect consumers of these required services and those using the state’s roads and highways. These rules have been developed to provide guidance to OWI assessment agencies to ensure uniformity and effectiveness of policies and procedures across the state.

It should be noted that while ch. HFS 62 is being repealed and recreated, most of the original 1984 rule is still intact and therefore diminishes the impact on affected agencies. The

intent of the proposed revisions to ch. HFS 62 is to incorporate into the existing rules those policies and procedures disseminated through departmental policy memos since 1984. It was not the intent of the Legislature under s. 343.30 (1q) (c) 2, Stats., that the Department rely solely on policy memos to incorporate need changes into the program nor can the Department do an adequate job of monitoring the program based upon policy memos. Furthermore, OWI assessment agencies have requested that the Department update its state–approved policies and procedures by incorporating those policies that are still endorsed into the rules.

According to Department records (Bureau of Quality Assurance), there are approximately 640 entities in Wisconsin in the business of providing ambulatory substance

abuse health care and treatment. The North American Industry Classification code for this industry is “621420”. Forty–seven (47) of these 640 entities which are affected by the proposed rule, are operated by county governments. Twenty–five (25) of the affected entities are private non–profit corporations and would be considered small businesses [having fewer than 25 employees or not more than \$5 million in revenue under s. 227.114 (1) Wis. Stats.]. Expressed as a proportion, about 4 percent of the entities providing substance abuse health care and treatment in Wisconsin are affected by the proposed rule and are small businesses. A sample of these industry code 621420 small businesses which assisted in the revision of these rules include the following (information provided by each agency):

Corporate Name	Location	Number of Employees	Annual Payroll
Addiction Resource Council	Waukesha, WI	23	\$521,000
Arbor Place	Menomonie, WI	32	\$617,000
Ashland Area Council on Alcoholism and Drug Abuse	Ashland, WI	6	\$164,400
Impact Alcohol and Other Drug Abuse Services	Milwaukee, WI	70	\$3,600,000
Racine Psychological Services	Racine, WI	14	\$531,000

These revised rules have a direct impact on small business entities which the Department certifies and provides general oversight. None of the 25 small businesses affected by these rules will be exempt from meeting the proposed rule changes, however, after careful review, the Department does permit variances or waivers if warranted. The Department has determined that exempting any entity from compliance with ch. HFS 62 or HFS 75 would compromise the health and safety of individuals receiving OWI assessment services and would negatively affect the program’s ability to reduce intoxicated driving and make Wisconsin’s roads and highways safe. Data from the Department of Transportation show that under the current program, 75 to 86 percent of persons convicted of OWI do not reoffend in a five–year period after their OWI arrest. Since the program started in 1984, the adult rate of driving under the influence has dropped from 11 percent to 5 percent (Behavioral Risk Factor Survey, Department of Health and Family Services); alcohol–related traffic crashes declined 60 percent; injuries declined 40 percent; and fatalities declined 30 percent (Department of Transportation).

To diminish the impact of the rule changes on affected agencies including small businesses, a workgroup composed of representatives from the 47 county agencies and the 25 small businesses joined with Department staff to develop and approve each and every proposed rule revision. One of the principles adhered to in the development of the proposed rule revisions were that there be no increased costs. Two potential cost elements emerge in the revised rules. The first is a requirement for OWI assessor professionals to obtain six hours of continuing education each year. This is necessary to ensure a competent workforce in this statewide program that directly affects so many people and has public safety implications. To reduce the cost impact, the rule has been written in such a way as to allow continuing education hours obtained for professional licensure or certification to be used to fulfill the requirement under the proposed rule revision. Furthermore, the continuing education hours requirement may be satisfied through no–cost educational options such as agency inservices.

The second is a requirement that all OWI assessment agencies be approved by the state under ch. HFS 75 (community substance abuse service standards). This requirement is necessary to protect the persons receiving services under the OWI program from abuses and ensure that

minimum standards of agency practices are adhered. The Department will conduct on–site reviews to monitor compliance under ch. HFS 75. There is a cost of \$300 for this certification. Sixty (60) of the OWI assessment agencies affected by these rule revisions are currently certified under ch. HFS 75 so there is no additional certification required and therefore no cost impact. Twelve of the remaining OWI assessment agencies had been certified under ch. HFS 61 prior to the promulgation of ch. HFS 75 in 2000. The “intervention” service under which these programs had been certified in 2000 is being restored under these proposed rules. While there is an increased cost of \$300 per year for these 12 agencies under ch. HFS 75, the advisory committee felt these costs were negligible. None of the potential cost elements increase agency operating costs by more than the 2004 Consumer Price Index of 2.7 percent nor decrease agency revenues by more than 2.7 percent.

As described previously, the principal purpose for the current revision of the rules was to incorporate endorsed and local agency–supported Department policy memos into ch. HFS 62. One such policy has to do with the filing and processing of complaints or appeals by persons receiving OWI assessment services. In order to expedite any complaint or appeal, the rule specifies that each step in the process be completed within five working days or in a timely fashion. It is in the best interest of the assessment agency and the client to expedite this process. Since this schedule was already in effect under Department policy, it was strongly supported by the advisory committee. Another deadline for compliance includes the requirement that assessor professionals obtain six hours of continuing education within a 12–month time frame. This too was supported by the advisory committee because similar requirements are already in effect for professional credentialing.

There are two new reporting or documentation requirements under the proposed rule revisions. The first pertains to an evaluation report under the ch. HFS 75 intervention service. This requirement will affect the 12 small businesses that will need to seek recertification under ch. HFS 75. It is important for agencies to objectively self–evaluate in order to ensure that the program’s stated purpose is being achieved and to determine where improvements are needed. This further provides documentation of accountability to an agency’s board as well as the Department. This evaluation process and report is a standard requirement for all 640

state–certified substance abuse service agencies across the state. The advisory committee has determined that these activities and documentation are already part of their agency’s current functions and therefore there are no new costs.

A second area of documentation that is new to the proposed rule revisions is a requirement that alternative education programs maintain files containing a written program description and instructor credentials, coursework, and driving record. These requirements will affect just three of the 72 OWI assessment agencies that also provide an alternative education program. These files and documents are necessary in order to ensure that the curriculum and format used is consistent with sound adult education principles and that instructors meet minimum requirements for professional competence. The advisory committee has determined that these requirements are already part of their agency’s current functions and there are no new costs.

As presented previously, there are some pertinent performance indicators that are monitored by the Department and the Department of Transportation to assess the OWI program’s overall performance. These indicators include persons reconvicted of OWI, the adult rate of driving under the influence, alcohol–related traffic crashes, injuries, and fatalities. Some of these data are available for individual counties and some are not. It would both be costly and unrealistic to expect individual OWI assessment agencies to gather this data and achieve improvements in any of these areas because they play only one part in the overall program. Law enforcement, the courts, technical colleges, businesses, and community norms play an equally important part in the program’s overall success. Ensuring that evidence–based practices and approaches are implemented is the best way to achieve success and ensure humane and effective services to consumers. Scientific literature and experts in the field of highway safety and addiction rehabilitation are regularly consulted in order to keep abreast of the latest approaches for achieving success under this program. This information, approaches and practices are passed on to community agencies in the form of training, and in some cases, enacted law.

As such, there are no significant increased costs in the areas of capital investments (land, structure, equipment), operational elements such as labor, energy, and purchased materials and services, professional skills, ongoing transaction elements, or any other administrative compliance cost elements, or fees necessary for compliance with the rule. There are no new reporting requirements and no staff qualification or training requirements that would increase service costs substantially or create problems resulting in staff layoffs or difficulty recruiting qualified staff.

Small Business Regulatory Coordinator

Rosie Greer

Greerrj@dhfs.state.wi.us

608–266–1279

Fiscal Estimate

The intent of the proposed revisions to HFS 62, assessment of drivers with alcohol controlled substance problems, is to incorporate policies and procedures disseminated through departmental policy memos into the rules. These revised rules have a direct impact on business entities for which the department certifies and provides general oversight. Fifty–six of these entities are under the jurisdiction of county governments. Sixteen of these entities are private non–profit corporations providing various human services and would be considered small businesses. A workgroup composed of representatives from the 47 county agencies and the 25 small businesses worked with department staff to develop and

approve each and every proposed revision. Two of the principles adhered to in the development of the proposed revisions were that there be no increased costs and no loss of revenue.

There are no increased costs in the areas of capital investments (land, structure, equipment), operational elements such as labor, energy, and purchased materials and services, professional skills, ongoing transaction elements, or any other administrative compliance cost elements, or fees necessary for compliance with the rule.

Obtaining Copies of Rules and Fiscal Estimate

A copy of the full text of the rules and the fiscal estimate can be obtained at no charge from the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> or by contacting the contact person listed below.

Contact Person

Gary Nelson, IDP Coordinator
DHFS – Bureau of Mental Health and Substance Abuse Services

1 West Wilson St., Rm. 437

P.O. Box 7851

Madison, WI 53707–7851

Phone: 608–267–7164

Email: nelsogp@dhfs.state.wi.us

Notice of Hearings

Natural Resources

(Fish, Game, etc.)

[CR 06–039]

(reprinted and amended from the 4/30/06 Register)

NOTICE IS HEREBY GIVEN that pursuant to ss. 30.62 (2) (d) 2. and 227.11 (2) (a), Stats., interpreting s. 30.62 (2) (b) and (2) (d) 2. and 3., Stats., the Department of Natural Resources will hold public hearings on the creation of s. NR 5.125 (1) (d), Wis. Adm. Code, relating to sound testing methods for airboats. Section 30.62 (2) (a), Stats., requires all boat sounds to meet the level of 86 db or less in order to be legal. The current tests that the department uses are designed for motor exhaust noise or they are not safe to perform on airboats or hovercraft type boats when measuring noise other than muffler or exhaust noise. In 2005, the department was notified of concerns that it was not enforcing the noise requirements on airboats that we apply to all other boats. Currently, airboats and hovercraft have to meet the 86 db sound level as it relates to their engine exhaust noise, but there is no test that would allow for the safe testing of the propeller and fan noise. The proposed rule change in the testing process would utilize Society of Automotive Engineers Test J1970 but would take in consideration the safety concerns when testing propeller and fan types of watercraft. The test contains step–by–step instructions for measuring noise from boats.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rules may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses affected: Commercial trappers and fishers
- b. Description of reporting and bookkeeping procedures required: None
- c. Description of professional skills required: None

The Department’s Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266–1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

Wednesday, **May 24, 2006** at 11:00 a.m. until the conclusion of public comments

Sheriff's Dept. Basement, Crawford County Courthouse
220 N. Beaumont St.

Prairie du Chien

Wednesday, **May 24, 2006** from 3:00 p.m. to 6:00 p.m.

Room 130, Todd Wehr Memorial Library

900 Viterbo Drive

La Crosse

[New Hearing Added]

Thursday, June 1, 2006 at 10:00 a.m.

Room 613, GEF 2

101 S. Webster St.

Madison

Thursday, **June 1, 2006** at

Teleconference participation will be available at:

Room 311, Wisconsin Indianhead Technical College

2100 Beaser Avenue

Ashland

2:00 p.m. until the conclusion of public comments.

Room 116B, Forest R. Polk Library

UW-Oshkosh

800 Algoma Blvd.

Oshkosh

3:00 p.m. until the conclusion of public comments

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call William Engfer at (608) 266-0859 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

If the new testing procedure is passed the public will expect law enforcement agencies who do boating enforcement to enforce this law on prop driven type boats within their jurisdiction. While this will increase the workload of these agencies, it is anticipated that the increase workload will be minimal and can be accomplished in the daily operations of these patrols.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: adminrules.wisconsin.gov. Written comments on the proposed rule may be submitted via U.S. mail to Mr. William Engfer, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until June 9, 2006. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Engfer.

Notice of Hearing Public Service Commission [CR 06-046]

Hearing Date: Wednesday, **June 7, 2006** at 10:00 a.m.

Hearing Location: Public Service Commission, 610 North Whitney Way, Madison, WI

Comments Due: Tuesday, June 13, 2006 – Noon

FAX Due: Monday, June 12, 2006 – Noon

Address comments to:

Sandra Paske, Secretary to the Commission

Public Service Commission

P.O. Box 7854

Madison, WI 53707-7854

FAX (608) 266-3957

The Public Service Commission of Wisconsin adopts an order to repeal ch. PSC 7, 8.07 (8) to (10) and (12), 104.01 (1), 115.02 (2), 133.01 (1), 136.01 (1), 136.04 (1) (a), (g) and (j), 165.01 (1), 165.081 (6) (c), 166.03, 168.08, ch. 170, 171.03 (2), 171.05, the note following 171.10 (2), and ch. 172; to renumber PSC 115.02 (1), 134.13 (1) (a) 1. to 15. and 134.13 (1) (b) to (j), and 171.03 (1) (intro.) and (a) to (f); to renumber and amend PSC 115.02 (1) (a) to (e); to amend PSC 104.04 (4), 113.0301 (10) (c) 4., 134.13 (1) (a) (intro.), 136.04 (1) (b) to (f), (h) and (i), 164.01, 166.015, 166.07, 166.11; and to create PSC 134.13 (1) (a) 1. to 7. and 134.13 (b) (intro.); relating to assessments attributable to acid deposition studies and monitoring activities, the regulation of certain wireless telecommunications providers, radio common carriers, the repeal of obsolete language and the updating of rule language to be in conformity with current drafting conventions.

Analysis Prepared by the Public Service Commission

Statutory authority: ss. 196.02 (3) and 227.11 (2), Stats.

Wis. Admin. Code ch. PSC 7 deals with assessments attributable to acid deposition studies and monitoring activities. The statute implemented by Wis. Admin. Code ch. PSC 7 was repealed by 1997 Wis. Act 27. Therefore, there is no reason to retain this administrative rule.

Wis. Admin. Code ch. PSC 172, which deals with the regulation of certain wireless telecommunications providers, was nullified when the Wisconsin Telecommunications Act was passed. That Act ended, with very limited exceptions, the Commission's jurisdiction over wireless providers. Wis. Admin. Code ch. 170 deals with radio common carriers, a category of telecommunications providers that no longer exists. Therefore, there is no reason to retain these administrative rules.

A variety of other changes are made to bring rule language into conformity with current drafting conventions or to eliminate obsolete language.

TEXT OF PROPOSED RULE

SECTION 1. PSC 7 is repealed.

SECTION 2. PSC 8.07(8) to (10) and (12) are repealed.

This rule making amends ch. Trans 152, relating to Wisconsin Interstate Fuel Tax and International Registration Plan programs. The rule making clarifies Department policies regarding application requirements, business location, collections, and overdue billings. The rule making also reflects a statutory change in 1999 Wis. Act 145 that transfers appeals of certain determinations of the Department of Transportation from the Division of Hearings and Appeals to the Tax Appeals Commission.

SECTION 4. PSC 104.04(4) is amended to read:

PSC 104.04(4) The utility shall notify the commission of accidents to ~~employees~~ employees resulting in more than 3 days' disability. Advice given promptly by the utility that notice has been given to the ~~industrial commission workers' compensation division of the department of workforce development~~ shall be deemed considered compliance with this subsection.

SECTION 5. PSC 113.0301(10)(c)4. is amended to read:

PSC 113.0301(10)(c)4. A statement that residential utility service will be continued during serious illness or protective services emergency if the occupant submits a statement or notice pursuant to sub. ~~(42)~~ (13).

SECTION 6. PSC 115.02(1) is renumbered 115.02.

SECTION 7. PSC 115.02(1)(a) to (e) is renumbered 115.02(1) to (5) and amended to read:

PSC 115.02(1) ~~Wisconsin electric power company~~ Electric Power Company.

(2) ~~Wisconsin public service corporation~~ Public Service Corporation.

(3) ~~Wisconsin power and light company~~ Power and Light Company.

(4) ~~Northern states power company of Wisconsin~~ States Power Company.

(5) ~~Madison gas & electric company~~ Gas and Electric Company.

SECTION 8. PSC 115.02(2) is repealed.

SECTION 9. PSC 133.01(1) is repealed.

SECTION 10. PSC 134.13(1)(a)(intro.) is amended to read:

PSC 134.13(1)(a) All of the information in par. (b) shall be shown for each meter on Each each bill, including the customer's receipt, if the bill is provided by any of the following:

~~Madison gas and electric company,~~

~~Northern states power company,~~

~~Superior water light and power company,~~

~~Wisconsin fuel and light company,~~

~~Wisconsin power and light company,~~

~~Wisconsin public service corporation, and~~

~~Wisconsin southern gas company shall show for each meter the following information:~~

SECTION 11. PSC 134.13(1)(a)1. to 15. are renumbered 134.13(1)(b)1. to 15.

SECTION 12. PSC 134.13(1)(a)1. to 7. are created to read:

PSC 134.13(1)(a)1. Madison Gas and Electric Company.

2. Northern States Power Company.

3. Superior Water, Light and Power Company.

4. Wisconsin Electric Power Company.

5. Wisconsin Gas Company, LLC.

6. Wisconsin Power and Light Company.

7. Wisconsin Public Service Corporation.

SECTION 13. PSC 134.13(1)(b) to (j) are renumbered 134.13(1)(c) to (k).

SECTION 14. PSC 134.13(b)(intro.) is created to read:

PSC 134.13(b)(intro.) The bill under par. (a), including the customer's receipt, shall show the following information:

SECTION 15. PSC 136.01(1) is repealed.

SECTION 16. PSC 136.04(1)(a) is repealed.

SECTION 17. PSC 136.04(1)(b) to (f) are amended to read:

~~PSC 136.04(1)(b) Madison gas and electric company~~ Gas and Electric Company.

(c) ~~Northern states power company~~ States Power Company.

(d) ~~Superior water, light and power company~~ Water, Light and Power Company.

(e) ~~Wisconsin fuel and light company~~ Electric Power Company.

(f) ~~Wisconsin gas company~~ Gas Company LLC.

SECTION 18. PSC 136.04(1)(g) is repealed.

SECTION 19. PSC 136.04(1)(h) and (i) are amended to read:

~~PSC 136.04(1)(h) Wisconsin power and light company~~ Power and Light Company.

(i) ~~Wisconsin public service corporation~~ Public Service Corporation.

SECTION 20. PSC 136.04(1)(j) is repealed.

SECTION 21. PSC 164.01 is amended to read:

PSC 164.01 Filing of information. Any public utility engaged in furnishing ~~telephone~~ telecommunications service which determines to furnish service to its employees employees, pensioners, and officers at no charge or at charges less than those prescribed in its published schedules or tariffs, as provided in s. 196.60, Stats., as amended by ch. 499, laws of 1963, shall inform the public service commission of ~~Wisconsin~~ as hereinafter prescribed in s. PSC 164.02 of the conditions and circumstances under which it will be furnished.

SECTION 22. PSC 165.01(1) is repealed.

SECTION 23. PSC 165.081(6)(c) is repealed.

SECTION 24. PSC 166.015 is amended to read:

PSC 166.015 Conforming maps. Every exchange area boundary map filed with the commission ~~on and after June 1, 1943, shall conform to the following rules in this chapter and every such map filed before that date shall be revised on or before September 1, 1943, to conform to such rules.~~ Exhibit A attached is a specimen map which conforms to all of the requirements established by the ~~in these rules herein adopted.~~

SECTION 25. PSC 166.03 is repealed.

SECTION 26. PSC 166.07 is amended to read:

PSC 166.07 Accompanying statement. All maps filed with the commission shall be accompanied by a statement of undertaking to serve ~~on a sheet 8 1/2 x 11 inches in size~~ in the following form:

"The attached map, dated _____, delineates the boundary and territory of the _____ exchange in which the _____ Telephone Company now serves and will serve the public. The Telephone Company undertakes, subject to its extension rules and filed tariffs, to make extensions of its lines and service at any time when such service may be requested or demanded by any person located within such territory as designated on such map.

“The _____ Telephone Company will not extend its lines and service beyond the territory and exchange boundary defined on the attached map, except:

(a) to serve persons located in the territory designated as open on such map.

SECTION 27. PSC 166.11 is amended to read:

PSC 166.11 Exhibit “B”, suggested statement required under s. PSC 166.08.

Notice of Hearing
Public Service Commission
[CR 06-017]

Hearing Date: Wednesday, **June 7, 2006** at 10:00 a.m.

Hearing Location: Public Service Commission, 610 North Whitney Way, Madison, WI

Comments Due: Tuesday, June 13, 2006 – Noon

FAX Due: Monday, June 12, 2006 – Noon

Address comments to:

Sandra J. Paske, Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854
FAX (608) 266-3957

The Public Service Commission of Wisconsin adopts an order to repeal ch. PSC 98, Wis. Admin. Code, relating to rules adopted to meet all requirements in section 303.304 of the regulations of the Federal Price Commission in regard to increases in rates or charges of utilities, railroads, motor carriers, and carriers by water within the Public Service Commission’s jurisdiction.

Analysis Prepared by the Public Service Commission

Statutory authority: ss. 196.02 (3) and 227.11 (2), Stats.

History of Chapter PSC 98

PSC Chapter 98 was created in Docket No. PC-1 on October 10, 1972. The rules were adopted to meet all requirements in section 303.304 of the regulations of the Federal Price Commission in regard to increases in rates or charges of utilities, railroads, motor carriers, and carriers by water within the Public Service Commission’s jurisdiction. It was created in response to the creation of the Price Commission under the Economic Stabilization Act of 1970. The Price Commission was established by Executive Order No. 11627, 1971, by the Nixon Administration to stabilize prices. This was a time of freezes on the prices of all commodities and services offered for sale except the prices charged for raw agricultural products.

Present Status

The authority contained in the Economic Stabilization Act of 1970, as amended, to impose a system of mandatory wage and price controls expired on April 30, 1974, Executive Order No. 11781. Executive Order No. 11788 dated June 18, 1974, provided for the orderly termination of economic stabilization activities and in Section 10 revoked Executive Order No. 11627 of October 15, 1971. It also abolished the Cost of Living Council in Section 1.

Based upon this information there is not a need for the continued existence of Chapter PSC 98.

Text of Proposed Rule

SECTION 1. Ch. PSC 98 is repealed.

Initial Regulatory Flexibility Analysis

The rules being repealed are not expected to affect small business as defined in s. 227.114 (1), Stats.

Fiscal Estimate

This repeal of this rule has no fiscal impact.

The Price Commission was established in 1970 under the Economic Stabilization Act of 1970. The Act was created to help stabilize prices. The authority contained in the Act to impose a system of mandatory wage and price controls expired April 30, 1974. There does not appear to be a need for the continued existence of the Chapter. Elimination of the chapter does not have any fiscal effect on state or local government.

Notice of Hearing

NOTICE IS GIVEN that pursuant to s. 227.16 (2) (b), Stats., the Commission will hold a public hearing on these proposed rule changes in the Amnicon Falls Hearing Room, at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on Wednesday, June 7, 2006 at 10:00 a.m. This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

Written Comments

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until noon on Tuesday, June 13, 2006 (noon on Monday, June 12, 2006 if filed by fax). All written comments must include a reference on the filing to docket 1-AC-211. File by one mode only.

Industry. File comments using the Electronic Regulatory Filing system. This may be accessed from the Commission’s website psc.wi.gov.

Members of the public.

If filing electronically: Use the Public Comments system or the Electronic Regulatory Filing system. Both of these may be accessed from the Commission’s website psc.wi.gov

If filing by mail, courier, or hand delivery: Use address as shown in the box on page 1.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet must state “Official Filing;” the docket number, 1-AC-211; and the number of pages, limited to 25 pages for fax comments.

Contact Person

Questions regarding this matter should be directed to Leon Swerin, Assistant General Counsel at (608) 267-3589. Media questions should be directed to Linda Barth, Director of Governmental and Public Affairs at (608) 266-9600. Hearing or speech-impaired individuals may also use the Commission’s TTY number, if calling from Wisconsin (800) 251-8345, if calling from outside Wisconsin (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to get this document in a different format should contact Leon Swerin, as indicated in the previous paragraph, as soon as possible.

Notice of Hearing
Revenue
[CR 06-030]

Notice is hereby given that, pursuant to s. 125.54 (7) (d), Stats., and interpreting s. 125.54 (7), Stats., the Department of Revenue will hold a public hearing at the time and place indicated below, to consider the creation of rules relating to liquor wholesaler warehouse facilities.

Hearing Information

The hearing will be held at 9:00 A.M. on Tuesday, **May 30, 2006**, in the Events Room (1st floor) of the State Revenue Building, located at 2135 Rimrock Road, Madison, Wisconsin.

Handicap access is available at the hearing location.

Comments on the Rule

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be submitted to the contact person shown below no later than June 6, 2006, and will be given the same consideration as testimony presented at the hearing.

Contact Person(s)

Small Businesses:	Others:
Tom Ourada	Dale Kleven
Dept. of Revenue	Dept. of Revenue
Mail Stop 624-A	Mail Stop 6-40
2135 Rimrock Road	2135 Rimrock Road
P.O. Box 8933	P.O. Box 8933
Madison, WI 53708-8933	Madison, WI 53708-8933
Telephone (608) 266-8875	Telephone (608) 266-8253
tourada@dor.state.wi.us	dkleven@dor.state.wi.us

Analysis by the Department of Revenue

Statute interpreted: s. 125.54 (7), Stats.

Statutory authority: s. 125.54 (7) (d), Stats.

Explanation of agency authority: Section 125.54 (7) (d), Stats., provides that the department shall promulgate rules to administer and enforce the requirements of s. 125.54 (7), Stats. It also provides that the department shall establish by rule minimum requirements for warehouse facilities on premises described in permits issued under s. 125.54, Stats., and for periodic site inspections by the department of such warehouse facilities.

Related statute or rule: s. 125.54 (7), Stats.

Plain language analysis: This proposed rule order requires that a liquor wholesaler warehouse facility described in a wholesalers' permit be a minimum of 4,000 square feet of floor space and be located in a free-standing building that is not part of or connected to a liquor retailer facility. It also requires permit-holding liquor wholesalers to retain invoices of their liquor purchases and complete a monthly inventory of their liquor stock. The invoices and inventory records must be kept at the warehouse facility described in the permit for two years, and must be open to inspection at all reasonable times by any representative of the department.

In addition to the requirements concerning liquor wholesaler warehouse facilities and liquor wholesalers, the rule requires the department to conduct a site inspection of the warehouse facility and a background investigation of the applicant before issuing a wholesalers' permit. It also requires the department to conduct periodic site inspections of

warehouse facilities described in wholesalers' permits. Applications for wholesalers' permits must be processed by and site inspections of warehouse facilities must be conducted by department personnel generally familiar with activities of liquor wholesalers.

Summary of, and comparison with, existing or proposed federal regulation: There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states: The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies: 2005 Wisconsin Act 25 created s. 125.54 (7), Stats., which establishes requirements for liquor wholesaler warehouse facilities and the activities of liquor wholesalers. Within the provisions of s. 125.54 (7), Stats., is a requirement that the department promulgate rules to:

Administer and enforce the requirements for liquor wholesalers and liquor wholesaler warehouse facilities.

Ensure coordination between the department's issuance and renewal of wholesalers' permits and its enforcement of the requirements for liquor wholesalers and liquor wholesaler warehouse facilities.

Require that all applications for issuance or renewal of wholesalers' permits be processed by department personnel generally familiar with activities of intoxicating liquor wholesalers.

Establish minimum requirements for warehouse facilities on premises described in wholesalers' permits and for periodic site inspections by the department of such warehouse facilities.

In consultation with the liquor wholesaler industry, the department has created this proposed rule order to satisfy the above requirements.

Analysis and supporting documents used to determine effect on small business: Section 125.54 (7), Stats., was created to establish minimum requirements in order to prevent liquor wholesalers who are not bona fide from operating in Wisconsin. Based on its consultation with the liquor wholesaler industry, the department understands that all of the bona fide liquor wholesalers currently operating in Wisconsin meet the requirements set forth in this proposed rule order. Based on this, the department has concluded that this proposed rule order does not have a significant effect on small business.

Anticipated costs incurred by private sector: This proposed rule order does not have a significant fiscal effect on the private sector.

Effect on small business: This proposed rule order does not have a significant effect on small business.

Agency contact person: Please contact Dale Kleven at (608) 266-8253 or dkleven@dor.state.wi.us, if you have any questions regarding this proposed rule order.

Place where comments are to be submitted and deadline for submission: Comments may be submitted to the contact person shown below no later than one week after the public hearing on this proposed rule order is conducted. Information as to the place, date, and time of the public hearing will be published in the Wisconsin Administrative Register.

Dale Kleven
Department of Revenue
Mail Stop 6-40
2135 Rimrock Road
P.O. Box 8933
Madison, WI 53708-8933

SECTION 1. Tax 8.63 is created to read:

Tax 8.63 Liquor wholesaler warehouse facilities. (1) **MINIMUM REQUIREMENTS FOR WAREHOUSE FACILITIES.** The premises described in a permit issued under s. 125.54, Stats., shall be a minimum of 4,000 square feet of floor space and shall be located in a free-standing building that is not part of or connected to a premises covered by a retail license or permit issued under s. 125.51, Stats.

(2) **PURCHASES BY A WHOLESALER.** Every permittee under s. 125.54, Stats., shall retain invoices covering all purchases of intoxicating liquor stored at the premises described in the permit for a period of 2 years from the date of the invoice. Such invoices shall be retained on the premises described in the permit and shall be open to inspection at all reasonable times by any representative of the department.

(3) **INVENTORY RECORDS.** Every permittee under s. 125.54, Stats., shall complete a written inventory listing the entire stock of intoxicating liquor stored at the premises described in the permit as of the close of business on the last day of every month. A copy of the inventory listing shall be retained on the premises described in the permit for 2 years from the date the inventory is completed and shall be open to inspection at all reasonable times by any representative of the department.

(4) **INSPECTIONS OF WAREHOUSE FACILITIES.** Before issuing a permit under s. 125.54, Stats., the department shall conduct a site inspection of the premises described in the permit application to determine if such premises meets the minimum requirements described in sub. (1). The department shall also conduct periodic site inspections of premises described in permits issued under s. 125.54, Stats. Site inspections shall be conducted by department personnel generally familiar with activities of intoxicating liquor wholesalers.

(5) **BACKGROUND INVESTIGATIONS OF APPLICANTS.** Before issuing a permit under s. 125.54, Stats., the department shall conduct a background investigation to determine that the applicant is qualified to hold the permit. The background investigation shall be limited to obtaining information that is necessary to enable the department to verify that the applicant meets the eligibility requirements described in s. 125.54 (2), Stats.

(6) **PROCESSING OF PERMITS BY THE DEPARTMENT.** All applications for issuance or renewal of permits under s. 125.54, Stats., shall be processed by department personnel generally familiar with activities of intoxicating liquor wholesalers. The issuance and renewal of permits shall be done in coordination with the enforcement of the requirements of s. 125.54 (7), Stats., including the inspections under sub. (4) and the background investigations under sub. (5).

Note: Section Tax 2.99 interprets s. 125.54 (7), Stats.

Note: Section 125.54 (7), Stats., was created by 2005 Wis. Act 25, effective July 27, 2005.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Fiscal Impact

The proposed rule will not have a significant fiscal effect.

Notice of Hearing Transportation [CR 06-043]

NOTICE IS HEREBY GIVEN that pursuant to 110.07, 110.075, 194.38, 194.43 and 227.11, Stats., and interpreting ss. 110.07 and 110.075, and ch. 194, Stats., the Department of Transportation will hold a public hearing in **Room 551** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **26th day of May, 2006**, at **10:00 AM** to consider the amendment of ch. Trans 327, Wisconsin Administrative Code, relating to motor carrier safety.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

Parking for persons with disabilities and an accessible entrance are available.

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 110.07 and 110.075, and ch. 194, Stats.

Statutory authority: ss. 110.07, 110.075, 194.38, 194.43 and 227.11, Stats.

Explanation of agency authority: The secretary shall set standards and adopt rules to establish a plan of inspection to implement the inspection program. It shall be the duty of the Department to prescribe rules and regulations as to safety and operations and the hours of service of drivers of motor vehicles operated under the authority of this chapter.

Related statute or rule: ss. 110.07, Stats.

Plain language analysis: This rule making will amend ch. Trans 327, relating to intrastate motor carrier safety regulations, to bring it into compliance with the most recent changes to the Federal Motor Carrier Safety Regulations which went into effect on April 1, 2006. Amendment of this rule will assure State Patrol inspectors and troopers are enforcing the most recent Federal Motor Carrier Safety regulations for intrastate carriers. The update of this rule will also keep the Department in compliance to qualify for continued Motor Carrier Safety Assistance Program (MCSAP) funding.

The Department annually updates ch. Trans 327 to keep current with the most recent changes to 49 CFR parts 390, 391, 392, 393, 395, 396 and 397.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Trans 327 (Motor Carrier Safety) adopts Federal regulations 49 CFR parts 390 to 397, with exceptions.

Comparison with Rules in Adjacent States: All adjacent states (Michigan, Minnesota, Illinois, and Iowa) adopt the same Federal regulations.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: The Federal Motor Carrier Safety Administration did extensive research into the most recent changes to the rules regulating commercial motor carriers and commercial drivers. Its research, coupled with input from the motor carrier industry, resulted in the recently revised regulations for interstate and intrastate commerce effective April 1, 2006.

Analysis and supporting documentation used to determine effect on small businesses: The research provided by the Federal Motor Carrier Safety Administration was used in analyzing the effects on small business.

Effect on small business: All businesses will have the same effect. There is no differentiation between small business and large business. The Department's Regulatory Review Coordinator may be contacted by e-mail at andrew.ruiz@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect and anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district. The Department estimates that there will be no fiscal impact on state revenues or liabilities or on the private sector.

Agency contact person and place where comments are to be submitted and deadline for submission: The public record on this proposed rule making will be held open until close of business the day of the hearing, 2006, to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Capt. Chuck Teasdale, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7936, Madison, WI 53707-7936. You may also contact Capt. Teasdale by phone at (608) 266-0305.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

Notice of Hearing
Workforce Development
(Workforce Solutions)
[CR 06-044]

NOTICE IS HEREBY GIVEN that pursuant to Sections 49.138, 49.143 (2) (c), 49.147 (6) (c), 49.155 (5), 103.005 (17), and 227.11 (2), Stats., the Department of Workforce Development proposes to hold a public hearing to consider rules relating to Wisconsin Works, emergency assistance, and child care, and affecting small businesses.

Hearing Information

May 31, 2006

Wednesday

1:30 p.m.

MADISON

G.E.F. 1 Building,

201 E. Washington Avenue

Interested persons are invited to appear at the hearings and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

Visitors to the GEF 1 building are requested to enter through the left East Washington Avenue door and register with the customer service desk. The entrance is accessible via a ramp from the corner of Webster Street and East Washington Avenue. If you have special needs or circumstances regarding communication or accessibility at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: This rule making amends ch. Trans 152, relating to Wisconsin Interstate Fuel Tax and International Registration Plan programs. The rule making clarifies Department policies regarding application requirements, business location, collections, and overdue billings. The rule making also reflects a statutory change in 1999 Wis. Act 145 that transfers appeals of certain determinations of the Department of Transportation from the Division of Hearings and Appeals to the Tax Appeals Commission.

Statutes interpreted: Sections 49.138, 49.143 (2) (c), 49.147, and 49.155 (5), Stats.

Related statutes: Sections 48.62 (5) and 49.155 (1m) (c) 1g., Stats.

Explanation of agency authority. Section 49.147 (6) (c), Stats., provides that a W-2 agency shall administer job access loans in accordance with rules promulgated by the department. Section 49.143 (2) (c), Stats., provides that each W-2 agency must employ at least one financial and employment planner (FEP), and the FEP must meet certification and training requirements established by the department by rule. Section 103.005 (17), Stats., provides that the department shall administer those programs of public assistance that specified in subch. III of ch. 49, Stats., including Emergency Assistance, W-2, and child care. Sections 103.005 (1) and 227.11 (2), Stats., provide general authority to promulgate rules necessary to effectuate the purpose of the statutes administered by the department.

Summary of the proposed rules. W-2 job access loans. Section 49.147 (6), Stats., provides that an individual who meets other Wisconsin Works (W-2) eligibility requirements may receive a job access loan needed to obtain or continue employment and address an immediate and discrete financial crisis. Section DWD 12.17 (2) provides that the amount of the loan to an individual may not be less than \$25 and not more than \$1600 in any 12-month period. The W-2 agency must also ensure that the average of all amounts loaned in any 12-month period does not exceed \$800. The proposed rules will eliminate the requirement that the average of all job access loans issued by a W-2 agency in a 12-month period not exceed \$800. The Legislative Audit Bureau report on the W-2 program issued in April 2005 stated that W-2 agencies report it is time-consuming to calculate ongoing job access loan amounts to comply with this requirement.

Emergency assistance. Section 49.138, Stats., provides for a program of emergency assistance to families with needy children in cases of fire, flood, natural disaster, homelessness, impending homelessness, and energy crisis. Prior to 2005 Wisconsin Act 25, a family could receive emergency assistance once in a 12-month period in cases of need due to fire, flood, natural disaster, energy crisis, or, if a member of the family was a victim of domestic abuse, in cases of need due to homelessness or impending homelessness. A family could receive once in a 36-month period for need due to homelessness or impending homelessness in all other cases. 2005 Wisconsin Act 25 amended s. 49.138, Stats., to provide that a family may be eligible for emergency assistance once in a 12-month period in all cases. The proposed rules amend Chapter DWD 16, relating to emergency assistance, to reflect this statutory change. The proposed rules also provide that an agency shall consider an application complete if the application includes a legible name; address, if available; signature by the applicant or the applicant's representative and has been completed to the best of the applicant's or representative's ability.

W-2 worker training rules. The W-2 worker training rules in Chapter DWD 17 currently provide various training requirements for W-2 agency financial and employment planners (FEPs) and resource specialists. The proposed rules clarify that case managers who perform any FEP function are required to complete the FEP training, regardless of what job title they may hold in the local W-2 agency. This includes case managers who specialize in employment attachment and retention, assist W-2 participants with special needs, or assist W-2 participants with the Supplemental Security Income (SSI) and Social Security Disability Income (SSDI) application process.

The proposed rules also clarify that W-2 agencies that subcontract out a portion of their obligations under the W-2 agency contracts with the department are responsible for ensuring that the subcontractors comply with the department's training requirements. The W-2 agencies are also responsible for including subcontractors in the monthly report submitted to the department on training needs for new workers and the annual report submitted to the department on training completed by all workers.

The proposed rules create a new training requirement for workers who supervise W-2 FEPs or resource specialists. Supervisors who are employed on or after the effective date of the rules will be required to complete the department's new worker training for the job function of the workers that the supervisor is supervising during the first 6 months of employment, unless the supervisor worked in that job function within one year prior to the date of hire as a supervisor. Supervisors will also have ongoing training requirements.

In addition, a permanent employee of the W-2 agency who transfers into a FEP position or resource specialist position and who has not completed the initial training for that position within the previous year will be required to complete the new worker training.

The proposed rules also add civil rights compliance, cultural awareness, and diversity issues; compliance with the Americans with Disabilities Act (ADA); and collaboration and coordination with local child welfare agencies as topics that will be included in the worker training curriculum.

Child care copayment responsibility for subsidized guardians. Section 48.62 (5), Stats., as affected by 2005 Wisconsin Act 25, creates a new program of subsidized guardianship. This program allows guardians who were licensed as the child's foster parents to receive payments in the same amount that they received as foster parents if, among other things, the child has been placed outside of his or her home for a cumulative period of one year or longer, and, despite reasonable efforts to return the child to his or her home, reunification of the child with the child's parent or parents is unlikely or contrary to the best interests of the child. The program also allows for monthly subsidized guardianship payments to an interim caretaker on the death, incapacity, resignation, or removal of a guardian receiving payments.

Section 49.155 (1m) (c) 1g., as affected by 2005 Wisconsin Act 25, provides that when an agency determines financial eligibility for a child care subsidy for a subsidized guardian or interim caretaker of the child, the agency must use the same procedure as is used for determining financial eligibility for a foster parent of a child. The department proposes to also treat subsidized guardians and interim caretakers the same as foster parents in determining the child care copayment amount. Section DWD 56.08 (2) (b) provides that foster parents do not have a copayment responsibility for the foster children in their care. The proposed rules will also provide no copayment responsibility for subsidized guardians and interim caretakers.

Technical corrections in child care rules. The current Chapter DWD 55, relating to day care certification, contains a section on conditions for child care reimbursement that does not relate to certification and more properly belongs in Chapter DWD 56, relating to the administration of child care funds. Much of the information currently in this section, s. DWD 55.03, is a duplicate of information already in Chapter DWD 56 and is repealed in the proposed rules. Information that is not duplicated is renumbered so that it is properly in Chapter DWD 56.

The proposed rules include the current child care copayment schedule that was adjusted effective February 26, 2006, based on changes in the federal poverty level. Section DWD 56.08 (3) allows the department to adjust the amounts in the schedule for various listed factors and to publish adjustments to the schedule in the *Wisconsin Administrative Register*.

Summary of factual data and analytical methodologies. The change to the rule on W-2 job access loans is in response to a recommendation by the Legislative Audit Bureau. The changes to the Emergency Assistance rules are primarily statutory updates to reflect changes in 2005 Wisconsin Act 25, and the zero child care copayment responsibility for subsidized guardians is a logical extension of 2005 Wisconsin Act 25. The W-2 training rules are amended to reflect demonstrated needs. Other changes are technical corrections.

Comparison with federal law. There are no federal requirements on the changes in the proposed rules.

Comparison with rules in adjacent states. Iowa. There may be maximum emergency assistance payments of a total of \$500 for a 30-day authorization period. These payments may be used for a single need or several needs. One authorization period is allowed per 12-month period. Illinois. Under the subsidized guardian program, payment may be made for day care for children under 3 years of age if the guardian is employed or in a training program that will lead to employment. Michigan. An application for state emergency relief is considered complete when the application form prescribed by the department has been filled out, the application has been signed by the applicant or by the applicant's authorized representative, the application has been received by the department, the applicant has provided information necessary for completion of eligibility forms and the completed form includes signatures of all adult members of the relief group. Minnesota. The department did not find rules on any of the changes in the department's proposed rules.

Effect on small businesses and fiscal impact on governmental bodies. The proposed rules will affect public and private W-2 agencies and contractors of W-2 agencies.

The change in the job access loan procedure may reduce administrative expenses for W-2 agencies.

Training requirements for W-2 workers provide tools for efficient, effective service delivery. Worker training may also increase a W-2 agency's customer satisfaction level, which would increase the agency's score on the W-2 performance standards and make it more likely that the agency will be able to renew the W-2 contract with the right of first selection.

The department does not charge agencies a fee for providing training. The only expense that the agencies incur is the worker's time away from normal duties and possible travel expenses. The department does on-site training for agencies that have at least a medium-sized group.

The Department's Small Business Regulatory Coordinator is Jennifer Jirschele, (608) 266-1023, jennifer.jirschele@dwd.state.wi.us.

Agency contact person and place where comments are to be submitted. The proposed rules are available at the web

site <http://adminrules.wisconsin.gov>. This site allows you to view documents associated with this rule's promulgation, register to receive email notification whenever the Department posts new information about this rulemaking order, and submit comments and view comments by others during the public comment period. You may receive a paper copy of the rule by contacting:

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development

P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403
elaine.pridgen@dwd.state.wi.us

Written comments. Written comments on the proposed rules received at the above address, email, or through the <http://adminrules.wisconsin.gov> web site no later than June 1, 2006, will be given the same consideration as testimony presented at the hearing.

Submittal of proposed rules to the legislature

Please check the Bulletin of Proceedings – Administrative Rules for further information on a particular rule.

Health and Family Services

(CR 06-018)

Ch. HFS 148, relating to the cancer drug repository program.

Regulation and Licensing

(CR 06-015)

Ch. RL 87, Appendix I, relating to the 2006 edition of the the Uniform Standards of Professional Appraisal Practice (USPAP).

Rule orders filed with the revisor of statutes bureau

The following administrative rule orders have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Revisor of Statutes Bureau at gary.poulson@legis.state.wi.us or (608) 266-7275 for updated information on the effective dates for the listed rule orders.

Nursing**(CR 05-121)**

An order affecting chs. N 2 and 3, relating to qualifications for examination and application procedures, temporary permits and refresher courses.

Effective 7-1-06.

Revenue**(CR 04-031)**

An order affecting ch. Tax 2, relating to the apportionment of apportionable income of interstate financial organizations.

Effective 7-1-06.

Transportation**(CR 06-003)**

An order affecting chs. Trans 325 and 326, relating to motor carrier safety regulations and motor carrier safety requirements for transportation of hazardous materials.

Effective 6-1-06.

Veterans Affairs**(CR 05-103)**

An order affecting ch. VA 13, relating to the veterans assistance program.

Effective 6-1-06.

Public notices

Health and Family Services (Medical Assistance Reimbursement of Nursing Homes) State of Wisconsin Medicaid Nursing Facility Payment Plan: FY 06–07

The State of Wisconsin reimburses Medicaid–certified nursing facilities for long–term care and health care services provided to eligible persons under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State’s Department of Health and Family Services, is called Medical Assistance (MA), or Medicaid. Federal Statutes and regulations require that a state plan be developed that provides the methods and standards for setting payment rates for nursing facility services covered by the payment system. A plan that describes the nursing home reimbursement system for Wisconsin is now in effect, as approved by the Centers for Medicare and Medicaid Services (CMS).

The Department is proposing changes in the methods of payment to nursing homes and, therefore, in the plan describing the nursing home reimbursement system. The changes are effective July 1, 2006.

The proposed changes would update the payment system and make various payment–related policy changes. Some of the changes are necessary to implement various budget policies in the Wisconsin 2005–2007 Biennial Budget and Act 211. Some of the changes are technical in nature; some clarify various payment plan provisions.

The estimated increase in annual aggregate expenditures attributable to these changes for nursing homes serving MA residents is approximately \$25,618,300 all funds, (\$14,735,646 federal financial participation, or FFP; also sometimes referred to as FED), excluding patient liability.

The proposed changes are being implemented to comply with Wisconsin Statutes governing Medicaid payment systems, particularly s. 49.45 (6m), Wis. Stats.

The proposed changes are as follows:

1. Modify the methodology to adjust the reimbursement for nursing homes within the parameters of 2005–2007 Biennial Budget Bill as well as Act 211 and to disburse the \$25,618,300 allotted in the bills to a rate increase of approximately 2.8% for nursing homes. These modifications will include adjustments to the maximums, per diems, and other payment parameters in Sections 5.400, 5.500, 5.700, 5.800 and 5.900; the inflation and deflation factors in Section 5.300; and targets in Sections 3.000 and 5.000.

2. Change references to previous years for descriptive reasons, as necessary.

3. Modify the labor factors listed in Section 5.410.

4. Change the dates of the definitions of base cost reporting period, common period, and rate payment year in Sections 1.302, 1.303, and 1.314 to reflect the 2006–2007 period.

5. Modify the targets in the property allowance in Section 3.532.

6. Delete Section 4.602.

7. Delete reference to Support Services in Section 4.320.

8. Correct the example in Section 3.410.

9. Correct references in Section 1.511.

10. Delete Sections 3.730, 5.330 and 5.340.

11. Amend Section 3.980 so that it would apply only to ICF–MRs.

12. Rewrite Sections 2.000 and 3.000 to reflect a transition to an acuity–based direct care payment.

13. Rewrite Sections 2.000 and 3.000 to establish a payment adjustment for dementia and behavioral needs.

14. Correct date in Section 3.531 (B).

15. Delete Section 3.776.

16. Modify Section 4.694.

Copies of the Proposed Changes:

Copies of the available proposed changes and proposed rates may be obtained free of charge by writing to:

Division of Health Care Financing

Attention: Nursing Home Medicaid Payment Plan

P.O. Box 309

Madison, WI 53701-0309

or by faxing James Cobb at 608-264-7720.

The available proposed changes may be reviewed at the main office at any county department of social services or human services.

Written Comments/Meetings:

Written comments on the proposed changes may be sent to the Division of Health Care Financing at the above address. The comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made to the proposed changes based on comments received. There will also be public meetings to seek input on the proposed plan amendment. If you would like to be sent a public meeting notice, please write to the above address. Revisions may also be made to the proposed changes based on comments received at these forums.

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